

October 7, 2009

Honorable Lawrence Bliss  
Senate Chair, Joint Standing Committee on  
Judiciary  
State House, Room 438  
Augusta, ME 04333

Honorable Charles Priest  
House Chair, Joint Standing Committee on  
Judiciary  
State House, Room 438  
Augusta, ME 04333

**Re: PL 2009, C. 230 – An Act to Prevent Predatory Marketing Practices against Minors**

Senator Bliss, Representative Priest, and Members of the Joint Standing Committee on Judiciary:

My name is Dan Walker. I am an attorney with Preti Flaherty, and I provide testimony on behalf of my clients, the Maine Press Association (“MPA”) and the Maine Daily Newspaper Association (“MDNPA”), to express our serious concerns related to PL 2009, C. 230 – An Act To Prevent Predatory Marketing Practices against Minors (“LD 1183”).

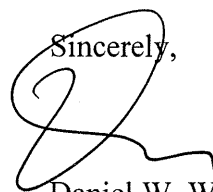
The Maine Press Association (“MPA”), founded in 1864, is the trade association for paid-circulation newspapers across the State of Maine. The association counts nearly 30 newspapers as its current members, both large daily newspapers and small weekly newspapers, providing news coverage for all regions within the State. The MPA’s bylaws list the Association’s essential goals, including “promoting the principles of freedom of speech and of the press and the public right to know.” The MPA is keenly interested in the free flow of information and in safeguarding its members’ constitutional rights.

The MPA has reviewed LD 1183, An Act to Prevent Predatory Marketing Practices Against Minors, 10 M.R.S.A. §§ 9551 *et seq.*, and concludes that the Act is a frontal attack on core constitutional rights that its members hold dear. The MPA believes that the Act is substantially overbroad. The Act prohibits the “transfer” of personal information about a minor in any instance where the information “[i]ndividually identifies the minor.” The term personal information is defined to include the minor’s name. MPA fears that this clause could be construed to prohibit newspapers from publishing stories in which minors are identified by name because such stories necessarily transfer information about a minor. Newspapers publish such stories on a daily basis. Newspapers routinely cover youth sports, education (including the “honor roll”), youth events, and other activities involving minors. The MPA believes that its members have the right to publish that information and that our readers have the right to receive that information.

Therefore, LD 1183 will have a chilling effect on journalism. It will act as a prior restraint on journalists publishing of legitimate, newsworthy material if it happens to involve a minor because of the possibility of civil penalties for not seeking parental permission.

Additionally, MPA fears that this clause could be construed to prohibit its members from receiving personal information broadly for any purpose of selling goods or services. The Act prohibits newspapers from receiving the name and address of a minor for activities as core to our First Amendment rights as subscribing to publications, or submitting letters to the editor. Before publishing a letter to the editor newspapers routinely confirm that the author and address given are genuine. The MPA believes that its members have the right to ask minors for their names and addresses for legitimate purposes, such as confirming a subscription or a letter to the editor.

Thank you for the opportunity to submit these comments, and MICA looks forward to working with the Committee on this issue during the work session process.

Sincerely,  


Daniel W. Walker  
Counsel to the Maine Press Association